

SENATE BILL 681
By McNally

AN ACT to amend Tennessee Code Annotated, Title 56, relative to disclosure of certain payments to insurance companies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 10, is amended by adding the following as a new section:

56-7-1014.

(a)

(1) Annually on or before January 1 of each year, any insurance company or health maintenance organization issuing health insurance in this state shall disclose to the department the value, nature and purpose of any gift, fee, payment, subsidy or other economic benefit to the insurance company or health maintenance organization that it receives either directly or through an affiliate or trade association representing any pharmaceutical manufacturer, pharmaceutical marketer, physician, hospital, nursing home or any other health care provider licensed under title 63 or health care facility licensed under title 68, chapter 11. Disclosure shall be made on a form and in a manner prescribed by the commissioner of commerce and insurance. Initial disclosure shall be made on or

before January 1, 2005, for the twelve-month period ending June 30, 2004. The commissioner shall provide to the office of the attorney general and reporter complete access to the information required to be disclosed under this subsection. The office of the attorney general and reporter shall report annually on the disclosures made under this section to the general assembly and the governor on or before March 1.

(2) Each entity subject to the provisions of this section shall also disclose to the commissioner, on or before October 1, 2003, and annually thereafter, the name and address of the individual responsible for the entity's compliance with the provisions of this section.

(3) The department and the office of the attorney general and reporter shall keep confidential all trade secret information, as defined by section 47-25-1702.

(4) Premiums for health insurance coverage paid in the normal course of business shall be exempt from disclosure under this section.

(b) The commissioner may impose a civil penalty on an insurance company or health maintenance organization that fails to disclose as required by subsection (a) of this section of no more than ten thousand dollars (\$10,000) per violation. Each unlawful failure to disclose shall constitute a separate violation.

(c) As used in this section:

(1) "Pharmaceutical marketer" means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in pharmaceutical detailing, promotional activities or other marketing of prescription drugs in this state to any physician, hospital, nursing home, pharmacist, health benefit plan administrator or any other person authorized to prescribe, dispense or purchase prescription drugs. The term does not include a

wholesale drug distributor or the distributor's representative who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug.

(2) "Pharmaceutical manufacturing company" means any entity which is engaged in the production, preparation, propagation, compounding, conversion or processing of prescription drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis or any entity engaged in the packaging, repackaging, labeling, relabeling or distribution of prescription drugs. The term does not include a wholesale drug distributor or a pharmacist licensed under title 63, chapter 10.

SECTION 2. This act shall take effect July 1, 2003, the public welfare requiring it.